



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

JOHN HODGES DC

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-17-0642-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

November 4, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Required testing requested by designated doctor."

Amount in Dispute: \$56.26

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Any additional payments sought should be directed to the claimant for the following reason. Texas Mutual Insurance Company is disputing liability for income and medical benefits because the claimant received an excess third party settlement. Per Section 417.002 (B)-(C) of Texas Labor Code, the carrier is allowed to suspend payment of additional benefits until the claimant can show he has spent an amount equal to the recovery on medical expenses and accrued but unpaid income benefits related to the injury."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
December 10, 2015	95851 x 3 units	\$56.26	\$55.09

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.305 sets out the procedure for Medical Fee Dispute Resolution.
- Texas Labor Code 417.002 Recovery Action in a Third Party
- Texas Labor Code 408.0041 Designated Doctor Examination
- 28 Texas Administrative Code §134.203 sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - CAC-97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
 - 217 – The value of this procedure is included in the value of another procedure performed on this date

Issue(s)

1. Did the insurance carrier submit documentation to support the denial reason raised in the position statement?
2. Is the insurance carrier's denial reason raised on the EOBs supported?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor seeks additional reimbursement for two units of range of motion testing CPT Code 95851 provided with the division ordered designated doctor examination. The insurance carrier's position statement states "Texas Mutual Insurance Company is disputing liability for income and medical benefits because the claimant received an excess third party settlement. Per Section 417.002 (B)-(C) of Texas Labor Code, the carrier is allowed to suspend payment of additional benefits until the claimant can show he has spent an amount equal to the recovery on medical expenses and accrued but unpaid income benefits related to the injury."

Section 408.0041, titled *DESIGNATED DOCTOR EXAMINATION* states in pertinent part, "(a) At the request of an insurance carrier or an employee, or on the commissioner's own order, the commissioner may order a medical examination to resolve any question about..."

Per Section 408.0041 states, "(h) The insurance carrier shall pay for: (1) an examination required under Subsection (a), (f), or (f-2), unless otherwise prohibited by this subtitle or by an order or rule of the commissioner..."

The Division finds that the insurance carrier's denial reason raised in the position summary is not supported. The insurance carrier paid for the designated doctor exam rendered on the same day and paid for one of the three units billed for CPT Code 95851 and denied the remaining units with denial reason codes "217 – The value of this procedure is included in the value of another procedure performed on this date" and "CAC-97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated."

The third party settlement issue raised by the insurance carrier in their position summary is not supported, due to Section 408.0041 (h) which states, "(h) The insurance carrier shall pay for: (1) an examination required under Subsection (a), (f), or (f-2), unless otherwise prohibited by this subtitle or by an order or rule of the commissioner..."

The information submitted by the insurance carrier is insufficient to support the exception in Section 408.0041 (h) which states in pertinent part, "...unless otherwise prohibited by this subtitle or by an order or rule of the commissioner..." As a result, the Division will review the disputed service and address the insurance carrier's denial reason(s) raised on the EOBs during the bill review process.

2. The insurance carrier issued payment for one unit of CPT Code 95851 in the amount of \$27.56 and denied the remaining two units with denial reduction code(s) "CAC-97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated" and "217 – The value of this procedure is included in the value of another procedure performed on this date."

Texas Administrative Code §134.203 states, "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

The Division completed NCCI edits and found no edit conflicts that would affect reimbursement of CPT 95851. As a result, the division finds the requestor is entitled to reimbursement for the additional two units of CPT Code 95851.

3. 28 Texas Administrative Code §134.203 states in pertinent part, "(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year..."

Procedure code 95851, dated December 10, 2015, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 0.16 multiplied by the geographic practice cost index (GPCI) for work of 1 is 0.16. The practice expense (PE) RVU of 0.35 multiplied by the PE GPCI of 0.92 is 0.322. The malpractice RVU of 0.01 multiplied by the malpractice GPCI of 0.822 is 0.00822. The sum of 0.49022 is multiplied by the Division conversion factor of \$56.20 for a MAR of \$27.55 at 3 units is \$82.65. The insurance carrier issued payment in the amount of \$27.56, therefore the requestor is entitled to additional payment in the amount of \$55.09

4. Review of the submitted documentation finds that the requestor is entitled to additional reimbursement in the amount of \$55.09 for disputed CPT Code 95851 rendered on December 10, 2015..

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$55.09.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$55.09 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	December 2, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.